



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: **Bennett**

Serial No.: **08/797,079**

Filed: **February 10, 1997**

For: **Method for File Transfer
Restarts Using Standard Internet
Protocol**

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§ **JAN 15 2003**
§ Group Art Unit: **2153** **Technology Center 2100**
§ Examiner: **Dinh, Dung C.**
§ Attorney Docket No.: **AT9-97-044**
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Certificate of Mailing Under 37 C.F.R. § 1.8(a)

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By: Dell Whitton

Dell Whitton

REPLY BRIEF

This brief is in response to the Examiner's Answer, filed in this case on November 14, 2002.

The fees required under § 1.17(c), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF REPLY BRIEF.

This brief is transmitted in triplicate. (37 C.F.R. 1.192(a))

ARGUMENT

The Examiner's Answer states:

With respect to group A, applicant argued that there is no reason to combine Kauffman and Averbuch, and that the combination teaches away from the claimed invention. The argument is not persuasive because, as acknowledged by applicant in the appeal brief, Kauffman teaches dividing a large file into smaller component files. Each of the Kauffman's component files is an actual file within itself. Each component file is individually transmitted from a server to a client upon request by the client [see col.11 lines 14-29]. Kauffman does not teach what to do when interruption occurs during the transmission of any of the component files. Averbuch teaches counting blocks while a file is in transmission so as to enable more efficient downloading of file by restarting the transmission at the point of interruption. Hence, one would have been motivated to applying the transmission restart method of Averbuch to the transmission of Kauffman component file so as to enable efficient downloading of each of the component files.

Examiner's Answer, dated November 14, 2002. Appellant agrees that Kauffman does not teach what to do when interruption occurs during transmission. Appellant also agrees that Averbuch teaches counting blocks while a file is in transmission so as to enable more efficient downloading of a file by restarting the transmission at the point of interruption. However, these facts do not lead a person of ordinary skill in the art to a conclusion that Kauffman and Averbuch can somehow be combined to arrive at the present invention.

Clearly, Averbuch, by itself, teaches a solution for transmitting files for which the transmission may be interrupted. However, this solution, which includes counting blocks during transmission, is quite different from the solution in the claimed invention, which recites downloading a sequence of component files identified in a profile. Thus, Averbuch teaches away from the claimed invention. Since Averbuch solves the same problem as the present invention, albeit in a very different manner, there is no need or suggestion to combine the teachings of Averbuch with Kauffman. Therefore, the conclusion that the present invention would have been obvious can only be reached through an impermissible use of hindsight with the benefit of Appellant's disclosure as a model for the needed changes.

The Examiner's Answer also states:

As per the argument for group B, applicant argued that the prior art does not teach that any component file transferred prior to the interruption is not re-transferred from the server.

The argument is not persuasive because, as discussed above, the client individually request each component files from a server. The client has a map that tells the client the component files to request [col.11 line 15]. It is apparent, from the combination of Averbuch with Kauffman as discussed above for group A, that any component file that were successfully received at the client would not be requested when restarting an interrupted transmission.

Examiner's Answer, dated November 14, 2002. Appellant respectfully disagrees. As expressly stated in the Examiner's Answer, "Kauffman does not teach what to do when interruption occurs during the transmission of any of the component files." Averbuch also fails to teach or suggest what to do when interruption occurs during transmission of component files. Therefore, the features of the present invention are only "apparent" in the prior art because the Examiner is given the benefit of Appellant's disclosure as a model for the needed changes.

Furthermore, the Examiner's Answer states:

As per the argument for group D, applicant argued that the prior art does not teach restart the downloading using the profile. Kauffman teaches a profile (pieces map) which lists in sequence the required component files [col.11 lines 14-20]. The map dictates the sequence for requesting the component files. Hence, it is apparent that when restart, the map would be used in order to determine which component files still needed from the server.

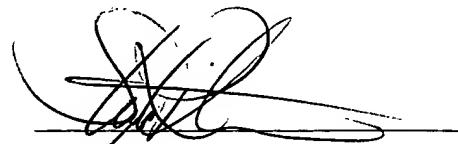
Examiner's Answer, dated November 14, 2002. Appellant respectfully disagrees. Again, as expressly stated in the Examiner's Answer, "Kauffman does not teach what to do when interruption occurs during the transmission of any of the component files." Averbuch also fails to teach or suggest what to do when interruption occurs during transmission of component files. Therefore, the features of the present invention are only "apparent" in the prior art because the Examiner is given the benefit of Appellant's disclosure as a model for the needed changes.

The Examiner's Answer further states:

As per the argument for group C, applicant argued that the reference does not teach using CRC to check file integrity. Kauffman and Averbuch does not teach using CRC to check file integrity. However, using CRC for checking file integrity is notoriously well known in the art. The rejection provided reference and proper obviousness rationale for using CRC.

Examiner's Answer, dated November 14, 2002. Appellant respectfully disagrees. Pyne does indeed teach the use of CRC for checking file integrity. However, the Examiner's Answer oversimplifies the argument made in the Appeal Brief. The prior art fails to teach or suggest CRC codes contained within a profile, which is received before initiating a download of the component files. The claims go beyond mere integrity checking using CRC codes. The claims in question recite receiving a profile for a plurality of component files, wherein the profile includes a CRC code for each component file. Pyne simply does not teach including CRC values in a profile. Therefore, a conclusion that the present invention would have been obvious over Kauffman in view of Averbuch and further in view of Pyne can only be reached through an impermissible use of hindsight with the benefit of Appellant's disclosure as a model for the needed changes.

In view of the above comments, it is respectfully urged that the rejections of the claims not be sustained.



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By:

Dell Whitton

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Technology Center 2100

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

ENCLOSED HEREWITH:

- Appellant's Reply Brief (in triplicate) (37 C.F.R. 1.192); and
- Our return postcard.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

Respectfully submitted,

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